## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUCHELL CINQUE MAGEE,	}
Petitioner,	No. C 08-3754 TEH (PR)
VS.	ORDER OF DISMISSAL
L. ADAMS, Warden,	(Docket No. 2)
Respondent.	
	,

Petitioner, a state prisoner currently incarcerated at California State Prison, Corcoran, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a January 23, 1975 conviction from the Superior Court of the State of California in and for the County of Santa Clara. His first federal petition was denied on May 10, 1995. See Magee v. Marshall, No. C 93-3637 DLJ (N.D. Cal. filed Oct. 10, 1993). Petitioner has filed many federal habeas and civil rights actions challenging the same conviction. Most recently, Petitioner's habeas petition under Case No. C 07-0091 was denied on October 11, 2007. See Magee v. Scribner, No. C 07-0091 TEH (N.D. Cal. filed Jan. 5, 2007).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner

obtains the necessary order. As such, Petitioner's motion seeking "clearance" is DENIED (docket no. 2). The Clerk shall close the file, terminate all pending motions, and enter judgment in accordance with this order. SO ORDERED. Helli of a sucon DATED: <u>08/26/08</u> THELTON E. HENDERSON United States District Judge